

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No.743 of 2003
in
Writ Petition No. 1823 of 1999

M/s S.S.Industries
C/o Shanti Vuillage
B2 Model Jain Gulmohar
Cross Road No.7, J.V.P.D.Scheme
Mumbai 400 045 ..Appellant

vs.

Shri Surendra G.Kotwal
Kotwadi Balgovindas Road
Chawl No.2, Room No.22, Shivaji
Park, Opp:Ruby Mills,Mahim
Mumbai 400 016 ..Respondents

Mr.Rajesh Gehani for appellant.
Mr.M.S.Udeshi for respondents.

**CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
20th April, 2005**

P.C.

1. We have heard the learned Counsel appearing for the parties. Perused the records including the order of the learned single Judge. The respondent/workman was working with the appellant company as a technician and being aggrieved with the termination of his services he approached the Labour Court and the Labour Court after hearing the parties by its award directed reinstatement of the workman with continuity of service and 50% of backwages.

2. The main defence of the appellant company is

that in terms of the settlement arrived at on 25th February, 1993 the company had paid the workman amount of Rs.15,000/- in full and final settlement and, therefore, the company did not attend further proceedings. Though the said amount was paid by cheque and the cheque was encashed by the workman the proceedings before the Labour Court were not withdrawn inspite of the assurance given by the workman and under these circumstances the matter proceeded ex parte and hence the award is required to be set aside. The contention was rejected by the Labour Court as well as the learned single Judge.

3. According to the appellant the settlement was arrived at on 25th February, 1993 when the proceedings were already pending before the Labour Court and the Labour Court having been seized with the matter regarding the dispute between the parties, if the appellant wanted to take any benefit of such settlement it was necessary for the appellant to adhere to the procedure prescribed under the law. It is admitted position that the procedure prescribed for settlement of the dispute while the matter was pending in court was not followed nor the terms of so called settlement were even placed on record before the Labour Court and before this Court.

4. It is also an admitted position that the workman was employed for more than 240 days during the period from 25th April, 1985 to 2nd March, 1986 and considering the fact that no retrenchment compensation was paid the finding of the Labour Court cannot be interfered with.

5. In the result, the appeal is dismissed.